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12 MARCO VERCH

13 **UNITED STATES DISTRICT COURT**

14 **EASTERN DISTRICT OF CALIFORNIA**

15 MARCO VERCH,

16 Plaintiff,

17 v.

18 STEPHEN E. KINERET, D.D.S., MS, INC.
19 dba KINERET ORTHODONTICS and
20 STEPHEN ELAN KINERET,

21 Defendants.

22 **Case No.:**

23 **COMPLAINT FOR COPYRIGHT
24 INFRINGEMENT (INJUNCTIVE RELIEF
25 DEMANDED)**

26 **Demand for Jury Trial**

27 Plaintiff MARCO VERCH by and through his undersigned counsel, brings this Complaint
28 against Defendants STEPHEN E. KINERET, D.D.S., MS, INC. dba KINERET ORTHODONTICS
and STEPHEN ELAN KINERET for damages and injunctive relief, and in support thereof states as
follows:

29 **SUMMARY OF THE ACTION**

30 1. Plaintiff MARCO VERCH (“Verch”) brings this action for violations of exclusive
31 rights under the Copyright Act, 17 U.S.C. § 106, to copy and distribute Verch’s original copyrighted
32 work of authorship.

2. Verch a photographer from Cologne, Germany. He has been working as a photographer for many years and enjoys taking pictures of scenery from his travels, sporting events, food, flowers, cars, drones and more. He also takes photos for advertisements and fundraising campaigns.

3. Defendant STEPHEN E. KINERET, D.D.S., MS, INC. DBA KINERET ORTHODONTICS (“SEKDDS, Inc.”) is an orthodontics company located in Rocklin, California and founded by Stephen Elan Kineret. SEKDDS provides orthodontic treatments for adults and children, including braces, Invisalign, and teeth whitening. At all times relevant herein, SEKDDS, Inc. operated the Facebook page located at the URL <https://www.facebook.com/kineret.ortho> (the “SEKDDS FB Page”).

4. Defendant STEPHEN ELAN KINERET (“Kineret”) is the principal and owner of SEKDDS and upon information and belief, the person responsible for the SEKDDS FB Page.

5. Defendants SEKDDS, Inc. and Kineret are collectively referred to herein as "Defendants."

6. Verch alleges that Defendants copied Verch's copyrighted Work from the internet in order to advertise, market and promote their business activities. Defendants committed the violations alleged in connection with Defendants' business for purposes of advertising and promoting sales to the public in the course and scope of the Defendants' business.

JURISDICTION AND VENUE

7. This is an action arising under the Copyright Act, 17 U.S.C. § 501.

8. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331, 1338(a).

9. Defendants are subject to personal jurisdiction in California.

10. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 1400(a) because the events giving rise to the claims occurred in this district, Defendants engaged in infringement in this district, Defendants reside in this district, and Defendants are subject to personal jurisdiction in this district.

DEFENDANTS

11. Stephen E. Kineret, D.D.S., MS, Inc. dba Kineret Orthodontics is a California Corporation, with its principal place of business at 6819 Lonetree Boulevard, Suite 104, Rocklin, CA 95765, and can be served by serving its Registered Agent, Mr. Ronald Melchin, 50 Iron Point Circle, Suite 115, Folsom, CA 95630.

12. Stephen Elan Kineret is an individual residing in Placer county, state of California and can be served at 3581 Black Oak Drive, Rocklin, CA 95765

THE COPYRIGHTED WORK AT ISSUE

13. In 2019, Liliya Krivorychko, employee hired by Verch, created the photograph entitled “A-man-uses-dental-floss-to-clean-his-teeth,” which is shown below and referred to herein as the “Work”.



14. Verch registered the Work with the Register of Copyrights on February 25, 2020 and was assigned the registration number VA 1-297-091. The Certificate of Registration is attached hereto as **Exhibit 1**.

15. At all relevant times Verch was the owner of the copyrighted Work at issue in this case.

INFRINGEMENT BY DEFENDANTS

16. Defendants have never been licensed to use the Work at issue in this action for any purpose.

17. On a date after the Work at issue in this action was created, but prior to the filing of this action, Defendants copied the Work.

18. On or about May 12, 2022, Verch discovered the unauthorized use of his Work on the SEKDDS FB Page in a post dated December 23, 2020.

19. Defendants copied Verch's copyrighted Work without Verch's permission.

20. After Defendants copied the Work, they made further copies and distributed the Work on the internet to promote the sale of goods and services as part of their dental and orthodontic business.

21. Defendants copied and distributed Verch's copyrighted Work in connection with Defendants' business for purposes of advertising and promoting Defendants' business, and in the course and scope of advertising and selling products and services.

22. Verch's Works are protected by copyright but are not otherwise confidential, proprietary, or trade secrets.

23. Defendants committed copyright infringement of the Work as evidenced by the documents attached hereto as **Exhibit 2**.

24. Verch never gave Defendants permission or authority to copy, distribute or display the Work at issue in this case.

25. Verch notified Defendants of the allegations set forth herein on August 5, 2022 and August 30, 2022. To date, the parties have failed to resolve this matter.

**COUNT I
COPYRIGHT INFRINGEMENT**

26. Verch incorporates the allegations of paragraphs 1 through 25 of this Complaint as if fully set forth herein.

27. Verch owns a valid copyright in the Work at issue in this case.

28. Verch registered the Work at issue in this case with the Register of Copyrights pursuant to 17 U.S.C. § 411(a).

29. Defendants copied, displayed, and distributed the Work at issue in this case and made derivatives of the Work without Verch's authorization in violation of 17 U.S.C. § 501.

30. Defendants performed the acts alleged in the course and scope of its business activities.

31. Defendants' acts were willful.

32. Verch has been damaged.

33. The harm caused to Verch has been irreparable.

WHEREFORE, the Plaintiff Marco Verch prays for judgment against the Defendants Stephen E. Kineret, D.D.S., MS, Inc. dba Kineret Orthodontics and Stephen Elan Kineret that:

a. Defendants and their officers, agents, servants, employees, affiliated entities, and all of those in active concert with them, be preliminarily and permanently enjoined from committing the acts alleged herein in violation of 17 U.S.C. § 501;

b. Defendants be required to pay Plaintiff his actual damages and Defendants' profits attributable to the infringement, or, at Plaintiff's election, statutory damages, as provided in 17 U.S.C. § 504;

c. Plaintiff be awarded his attorneys' fees and costs of suit under the applicable statutes sued upon;

d. Plaintiff be awarded pre- and post-judgment interest; and

e. Plaintiff be awarded such other and further relief as the Court deems just and

JURY DEMAND

Plaintiff Marco Verch hereby demands a trial by jury of all issues so triable.

DATED: May 20, 2023

Respectfully submitted,

/s/ Jonah A. Grossbardt
JONAH A. GROSSBARDT
MATTHEW L. ROLLIN
SRIPLAW
Attorneys for Plaintiff Marco Verch

SRIP LAW
CALIFORNIA ♦ GEORGIA ♦ FLORIDA ♦ TENNESSEE ♦ NEW YORK